

Exhibit B

Affidavit of Ashok Duggal and Exhibits Thereto

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

DONATO APONTE NAVEDO, BELKIS
ISABEL SANTIAGO MARTÍNEZ, AND
THEIR COMMUNITY OF ASSETS AND
GAINS,

Plaintiffs,

v.

NALCO CHEMICAL COMPANY, JOSÉ
SERRANO AND HIS WIFE JANE DOE (1),
AND THEIR COMMUNITY OF ASSETS
AND GAINS, JORGE CASTILLO AND HIS
WIFE JANE DOE (2), AND THEIR
COMMUNITY OF ASSETS AND GAINS,
ASHOK PAUL DUGGAL AND HIS WIFE
JANE DOE (3), AND THEIR COMMUNITY
OF ASSETS AND GAINS AND ABC
INSURANCE,

Defendants.

Case No. 09-cv-01232-JA

Magistrate Judge Marcos E. López

DECLARATION OF ASHOK DUGGAL

Pursuant to 28 U.S.C. § 1746, I, Ashok Duggal, state as follows:

- A.D.
1. I am over the age of 18 and have personal knowledge of the matters set forth herein. If called to testify about such matters, I would be able to do so.
 2. I am currently employed by Nalco Chemical Company as a District Manager for the Caribbean and Central America. I have been employed by Nalco since May 1996, when I began my employment as an Applications Engineer. The following year, I was promoted to the position of District Representative and in January, 2005, I was promoted to Area Manager. Since May 2009, I have held the position of District Manager for the Caribbean and Central America.

3. As part of my responsibilities, I have access to Nalco policies and other business records kept in the normal course of Nalco's business. Prior to signing this declaration, I reviewed business records regarding Donato Aponte to help refresh my recollection of events.

4. Donato Aponte reported directly to me from January 2005, when I became Area Manager, until the date of his termination on July 23, 2008. As Area Manager I reported directly to Jorge Castillo, Sales Manager. Castillo was based in Colombia.

5. On or about February 2007, I met with Aponte to discuss his performance. I told Aponte that I was concerned because several customers were dissatisfied with his level of service. In addition, I discussed with Aponte that his sales were down.

6. That same month, I sent an email to Aponte letting him know that I had not received the monthly reports for January and that it was imperative that he submit monthly reports no later than the 3rd day of every month. A true and correct copy of my email to Aponte is attached as Exhibit 1.

7. On or about March 2007, I received a survey response from Chevron Phillips, one of the accounts Aponte was responsible for servicing. The survey indicated that Chevron Phillips was very displeased with Nalco's services, citing a lack of consistency, the failure to submit timely reports and a lack of attention to special projects. On March 27, 2007, I advised Aponte that Nalco was at high risk of losing the Chevron Phillips account and that he needed to take immediate action by, among other items, discussing a Service Plan with Chevron Phillips. I also asked Aponte to send surveys and conduct business reviews with all his accounts. A true and correct copy of the email I sent to Aponte regarding the results of the Chevron Phillips survey is attached as Exhibit 2. Despite asking Aponte for his comments or suggestions as to how to address the issues raised by the Chevron Phillips, I did not receive a response from Aponte.

8. On or about May, 2007, I had a meeting with Wilfredo Guardiola, Daniel Resto and Albert Koett from Warner Chilcott (WC), another account over which Aponte had responsibility. They informed me that they were not satisfied with the level of service they were receiving from Aponte and that they were being aggressively approached by Chemtreat, one of Nalco's competitors. On May 21, 2007, I sent an email to Aponte summarizing my meeting at Warner Chilcott and gave Aponte various suggestions on specific things he could do to improve service to Warner Chilcott, such as helping them create a procedure to operate a deaerator, checking boiler parameters and making calculations and reports concerning the savings Warner Chilcott could achieve by using certain products. I told Aponte that it was critical that he resolve urgent items immediately, give the client the attention it required and that I was counting on him to stabilize the account. A true and correct copy of the email I sent Aponte regarding Warner Chilcott is attached as Exhibit 3.

9. As of August, 2007, several of the points I had raised in my May 21, 2007 email to Aponte concerning Warner Chilcott had yet to be resolved. Instead, Warner Chilcott reported that Aponte's visits were inconsistent, that he failed to submit reports in a timely manner and sometimes not at all. Warner Chilcott further reported that chemical inventories were low and that Aponte had taken an excessive amount of time to resolve a Cooling Tower controller issue and had likewise taken too long to provide the results of a deposit sample.

10. On or about mid-2007, Jorge Morales, Utilities Supervisor for Baxter, another one of Aponte's accounts, asked me to visit Baxter and informed me that he was displeased with Aponte's level of service. Morales informed me that Aponte did not visit on a consistent basis and that he did not submit routine visit reports in a timely manner and sometimes did not submit

them at all. Baxter also reported that Aponte had taken an excessive amount of time to resolve a Cooling Tower controller issuer and that chemical inventories were too low.

11. On August 14, 2007, I met with Aponte again to discuss his performance and specifically discussed with him the serious service deficiencies with Baxter and Warner Chilcott. I told him that Warner Chilcott was close to terminating Nalco's contract due to these issues and that he needed to take immediate steps to rectify this situation. I also advised Aponte that as of June 30, 2007, his year to date sales were down 11%, or approximately \$30,000, when compared to 2006. I also informed Aponte that he was late in submitting monthly District reports, expense reports and that he had also been on the Nalco Credit Card delinquency report once.

12. For all these reasons, effective August 14, 2007, I placed Aponte on a Performance Improvement Plan (PIP) and provided him a written memorandum summarizing our discussion and a specific action plan for him to improve his performance going forward. I asked that Aponte conduct immediate business reviews for all of his clients within 45 days, that he send customer feedback surveys to all his clients and that he endeavor to improve client rapport and service by adapting to client needs and responding to their requests in a timely fashion. I reminded Aponte that he was expected to submit administrative, expense and other reports on a timely manner. Furthermore, I told Aponte that he could not lose any accounts during 2007 and that he had to meet his yearly objective of 10% net sales growth. The written memorandum, acknowledged by Aponte further stated that we would continue evaluate his performance and that "his failure to meet and sustain the performance objectives and expectations outlined above w[ould] result in further disciplinary action up to and including termination. A true and correct copy of the Performance Improvement Plan memorandum I provided to and discussed with Aponte on August 14, 2007, is attached as Exhibit 4.

13. On or about late 2007, Warner Chilcott cancelled Nalco's contract and gave the business to a competitor.

14. On May 2, 2008, I visited Amgen, another one of Aponte's clients. While there, the client informed me that service was deteriorating. The following day, May 3, 2008, I sent an email to Aponte letting him know that Amgen was complaining of a decline in service. I advised Aponte that he had to take immediate action and that it was critical that he improve. Specifically, I detailed several areas where Aponte needed to improve, which included: visiting the client on a weekly basis and if that was not possible, immediately advising the client; submitting weekly reports and discussing them in person with the client representative; following up on value added projects and discussing them with the client; reacting promptly when the client asked for help or assistance and documenting client requests; and maintaining a positive can-do attitude at all times. With respect to this last point, I counseled Aponte that he needed to refrain from discussing personal problems with the client, that he could not appear negative, impatient or complain and that rather, it was critical for him to address the client needs and propose solutions in a timely manner to become a better representative. A true and correct copy of my email to Aponte regarding the service deficiencies with Amgen is attached as Exhibit 5.

15. Also in May, 2008, I was informed that Aponte had failed to submit monthly reports for various clients. I sent Aponte an email on May 23, 2008 asking what was going on. I did not receive a response from Aponte. A true and correct copy of my email to Aponte dated May 23, 2008 is attached as Exhibit 6.

16. On May 30, 2008, I asked Aponte to make several changes to a special report for Wyeth. A true and correct copy of my email to Aponte concerning Wyeth is attached as Exhibit

7. Aponte never responded to my email. Wyeth was expecting a response within 1 to 2 weeks, and it took Aponte over 2 months to provide a complete report.

17. In June, I wrote several emails to Aponte concerning his failure to submit timely client reports. I did not receive a response from Aponte. True and correct copies of my emails to Aponte regarding late reports are attached as Exhibit 8.

18. On June 21, 2008, I again emailed Aponte to advise him that I was very displeased with his performance and that he was not performing to the level that was expected of a Nalco Sales representative of his experience. Specifically, I noted that although I had sent him various emails requesting an action plan detailing how he would improve his quality of service including the submission of timely reports, visit frequency and general attitude improvement. I had failed to received a response from him. A true and correct copy of my email dated 6/21/08 is attached as Exhibit 9.

19. On June 23, 2008, I received an email from Jorge Ortiz, Account Manager, informing me that he had a meeting with Kenneth Colon and Roberto Picou. Utilities personnel from Amgen, and they had relayed various concerns regarding the service that Nalco was providing. Specifically, Ortiz informed me that:

- Amgen did "perceive from [Aponte] a professional level of service and the high standard that Nalco is supposed to deliver."
- "They feel [Aponte] has not been effective in providing a solution for the White Rust problem," that he had submitted a report on the issue six months after it was requested. Ortiz further stated that Amgen had contacted Chemtreat, a Nalco competitor, for a recommendation on how to handle the issue and Chemtreat had supplied them with a comprehensive and complete report the very next day.
- Amgen did not feel like Aponte was "taking care of their equipment and systems," that his "communication and reporting ha[d] been very low to none."
- Amgen had requested a report from [Aponte] several times concerning recommendations for chemical treatment changes needed for the boiler system and that nothing had been received.

- That they "he recognize[d] the technical knowledge that [Aponte] might have, but [noted that] with such poor communication and reporting skills, and the poor response time when something is requested, [Aponte's] service [wa]s not valuable to [Amgen]."

As an immediate action plan to attempt to salvage the Amgen relationship, Ortiz informed me that he had removed Aponte from the Amgen account. A true and correct copy of the email I received from Ortiz is attached as Exhibit 10.

20. As a result of Aponte's continued poor performance, on or about June 2008, I recommended that Aponte's performance be terminated. A true and correct copy of the correspondence I provided to Human Resources detailing the reasons for Aponte's proposed termination is attached as Exhibit 11.

21. Aponte's age, national origin, or any alleged disability played no role in my assessment of Aponte's performance or in my decision to recommend his termination of employment.

22. On July 14, 2008, I hired Jaime Suarez (Colombian) as an Applications Engineer. Suarez did not replace Aponte. Rather, Aponte's duties were absorbed by the other representatives in the district.

23. At the time of Aponte's termination, in addition to Aponte, there were 5 other district representatives or account managers reporting to me. All of them were of Puerto Rican nationality.

24. As of the date of this declaration there are 4 district representatives or account managers in the district. All but one are of Puerto Rican nationality.

25. The documents attached to this declaration are true and correct copies of documents maintained by Nalco. These documents are kept and maintained in the course of

regularly conducted business activity for Nalco and it is the regular practice of Nalco to create and/or maintain the documents attached to this declaration.

I declare, under penalty of perjury, that the foregoing is true and correct.


Ashok Duggal

Executed on this 20th day of June, 2011.

Exhibit 1 to Declaration of Ashok Duggal

Certified Translation
Janis Palma, USCCI

Page 1 of 14

Ashok P Duggal
02/17/2007 11:27 AM

To: Donato Aponte/USA/Latin/Nalco@NALCO
cc:

Subject: Monthly reports

Donato,

I could not find the monthly reports for January????
Nor FPC???? Send them now!!!

Always send me these before the 3rd of each month without failure. You are on probation.

The work does not end at the plants or the meetings.

~~~~~  
Ashok Pablo Dugal  
Area manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
~~~~~

Exhibit 2 to Declaration of Ashok Duggal

Certified Translation
Janis Palma, USCCI

Page 1 of 1



Ashok P Duggal

03/24/2007 07:38 PM

To: Donato Aponte/USA/Latin/Nalco@NALCO

cc:

Subject: CP

Donato,

A CFS survey is being sent to Paul Fonseca, and in summary, based on his answers, we are at HIGH RISK. A lot has to do with the lack of consistency in service, reports, special projects. We need to do a Bus Review now. What have we done, what can we do, and discuss the Service Plan.

I am very worried about this.

Many of your clients are weak, ALPLA, Baxter, CP, any others?

What is needed?

What do we do?

Comments?

We have to take action now.

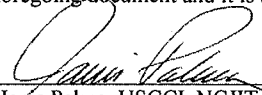
Have you sent the CFS to your clients? I already sent Paul, Jorge Morales and Guardiola, you send to the others. We need to do a Bus Rev with all your clients in April, coordinate that.

Ashok Pablo Duggal
Area manager
Nalco Co.
(787) 385-9350
aduggal@nalco.com
www.nalco.com

PS: E-mail will be filed in personal file.

CERTIFICATION BY TRANSLATOR

I, JANIS PALMA, an English-Spanish interpreter and translator certified to that effect by the Administrative Office of the United States Courts and the National Association of Judiciary Interpreters and Translators (NAJIT) respectively, do hereby certify that I have translated the foregoing document and it is a true and accurate translation to the best of my knowledge and ability.


Janis Palma, USCCI, NCJIT-S

June 21, 2011

Date

Exhibit 3 to Declaration of Ashok Duggal

Certified Translation
Janis Palma, USCCI

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Page 1 of 1

Ashok P Duggal
05/21/2007 09:34 AM
To: Donato Aponte/USA/Latin/Nalco@NALCO
cc:
Subject: Warner Chilcot Visit

Donato,
Here is a summary of the meeting I had with Wilfredo Guardiola, Daniel Resto, Lisandro Rivera, and Albert Koett.

Solving the pH alarms problems is urgent. Order two probes to fix that. If the pH is no longer controlled with acid, consider eliminating that alarm. Another deaerator is being installed. It will have two deaerators in line. One operating and the other one on stand-by, in order to have redundancy. They need suggestions in writing for the sulphite injection point, including the fact that they need a Quill. Also help them create a procedure to operate the deaerator with such boiler. There is always going to be a boiler in service. The procedure will be what valves to open with the Deaerator with such boiler. Until a matrix is prepared.

Order two quills to install in each 18" DA for sulphite.

Make calculations, report, what savings they could have if they use DI, RO, or Dealkalizer, to make-up for the boilers. If they already have such return in condensate maybe the DI or RO is not worth it. Guardiola already sent how much they spend for water. Diesel uses \$2.27/gal.

They want to use condensate from handlers for MU of CT. We also suggested using rainwater.

Check to make sure parameters for boiler are where they are supposed to be. Also review CT parameters to make sure they are where they're supposed to be, since the RO has been eliminated, and how they should be when the condensate water is used, etc.

Update Service Plan and discuss it with them.

Status of deposit analysis.

They are not too happy with the Nalco service and Chemtreat is aggressively trying to get in.

It is important to give them the love and attention they are looking for immediately. Check Manuel's work and make sure it is to their liking.

The urgent items have to be resolved now. As to the rest, some completions dates and agree to them with WC.

I am counting on you to stabilize this account.

~~~~~  
Ashok Pablo Dugal  
Area manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
~~~~~

file://F:\Nalco\Reps\DA\DA email Warner Chilcott

5/29/2009

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Exhibit 4 to Declaration of Ashok Duggal

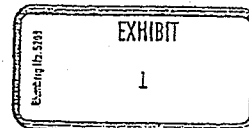


TO: Donato Aponte

FROM: Ashok Duggal

DATE: August 14, 2007

RE: Performance Improvement



Introduction:

On February 24, 2007 we discussed your mid year review and other problems with your performance for 2007. I have outlined the deficiencies in your performance specifically your customer satisfaction and overall sales increase.

Specific deficiencies/issues/problems:

As discussed following is a list of performance deficiencies:

1. Service deficiency with Baxter. They were very near to terminate our contract and switch to Chemtreat. These deficiencies consisted in:
 - a. Service Visits. These were not consistent and you never let them know when you could not visit them.
 - b. Routine Reports: Haven't been submitted on time and sometimes not at all.
 - c. Taken an excessive amount of time to resolve a CT controller issue.
 - d. Chemical Inventories have been too low for Jorge Morale's taste.
 2. Service deficiency with Warner Chilcott. These deficiencies consisted in:
 - a. Service Visits. These were not consistent and you never let them know when you could not visit them.
 - b. Routine Reports: Haven't been submitted on time and sometimes not at all.
 - c. Taken an excessive amount of time to resolve a CT controller issue.
 - d. Chemical Inventories have been too low.
 - e. On May 4 I responded to your Jeopardy report for WC and requested you to explain and detail an action plan to counter attack Chemtreat. I never received anything.
 - f. WC has been requesting continuously the results of a deposit sample, and it has taken an excessive amount of time to submit.
 - g. On May 21, I met with WC and sent you the summary of what they needed immediately. We have reason to believe that over 4 of the 9 points are still not resolved.
 3. As of June 30 you are 11% down YTD vs. 2006.
 4. \$30,000 down YTD vs. 2006.
 5. You have been on the Nalco Credit Card delinquency report at least once this year.
 6. I continuously receive notices from the eagls credit card reporting of which they still have not received your receipts of 12 past expense reports.
 7. We did not receive January, February, March, and June's monthly District Reports.
- * All yearly expected sales results agreed on are of 10% increase minimum.

Action

Regarding the above-mentioned deficiencies the following actions will take place:

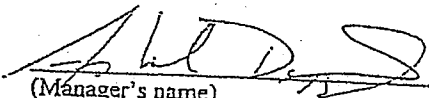


1. Bullets 1 and 2 are service deficiencies. We are to meet monthly to discuss all service related material, including 6SS. You are to make sure that these are done, by setting dates and follow ups.
2. You are to conduct immediate Business Reviews for all your clients. In the next 45 days.
3. You are to send Customer Feedback surveys to all of your clients. You must follow up and sell them the idea that they are to improve their service from Nalco, so they complete and send them.
4. Bullets 3 and 4 are deficiencies due to that the required agreed on yearly objectives have been minimum 10% net sales growth. You need to meet the agreed upon objectives as written in your 2007 Performance report.
5. In 2007, zero lost accounts are expected.
6. All monthly administration reports must be on time.
7. No more new eagls notices of lacking receipts from expense reports.
8. All other notices from eagls must be dealt with immediately and resolved as of August 2007.
9. Client rapport, service, adapting to their needs, responding to client's timeframe is all expected.
10. Zero preventable accidents are expected.

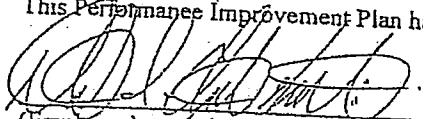
Consequences

We will be evaluating your performance again on November 1, 2007. Your failure to meet and sustain the performance objectives and expectations outlined above will result in further disciplinary action up to and including termination.

This document does not alter the employment-at-will relationship.


(Manager's name) 8/14/07
Date

This Performance Improvement Plan has been discussed with me, and I have received a copy.


(Employee's name) 8/14/07
Date

Cc: Personnel File
Jorge Castillo
Stepanie Glashagel

Exhibit 5 to Declaration of Ashok Duggal

Certified Translation
Janis Palma, USCCI

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Page 1 of 1

Ashok P Duggal
05/03/2008 11:31 AM

To: Donato Aponte/USA/Latin/Nalco@NALCO
cc:
Subject: Amgen

Donato,

During my visit to Amgen yesterday, Friday, May 2, some people told me that the service was going down.

Immediate action needs to be taken:

Weekly visits from you and another one from Crispin. If unable to go, which I hope will not be so frequently, you have to let me know, and Amgen.

Weekly reports without failure. Discuss it live with relevant people. You have to include Abimael. Copy me, I have not seen a report from you for a long time.

A BR will be done this Friday, May 9, at 10:00 a.m.

We need to follow-up on the value-added projects.

We need to talk to the projects' people to help them with the injection points and monitoring of the new equipments.

If they ask you for help or support, we have to react quickly. Include me in everything. Make reports to document.

You have to maintain a positive attitude all the time, with a desire to help find solutions.

Keep personal problems with family and friends. Do not complaint with customers.

If they do not have time, go straight to the core issue. Explain situation, problems, consequences, suggested solutions.

You cannot seem to be impatient, or with little time. They will not feel good if you are always in a hurry.

I have repeated a lot of this several times. We cannot fall frequently. This makes a big difference.

This is critical in a job with a lot of contact with people. They do not want to talk to someone who is negative and complaining. They all prefer to say, oh good, the Nalco guy is here, to talk, to solve things for me, to give me solutions, I like him, etc.

Let's talk, it is critical for you to improve for the sake of being a rep. If not it will be easy for the customer to change.

~~~~~  
Ashok Pablo Dugal  
Area manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
~~~~~

file:///F:/Nalco/Reps/DAIDA Amgen 5-3-08

5/29/2009

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Exhibit 6 to Declaration of Ashok Duggal

Certified Translation
Janis Palma, USCCI

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Page 1 of 1

Ashok P Duggal
05/23/2008 07:06 AM
To: Donato Aponte/USA/Latin/Nalco@NALCO
cc:
Subject: Fw: Reports

What is going on????

~~~~~  
Ashok Pablo Dugal  
Area manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
~~~~~

----- Forwarded by Ashok P Duggal/USA/Latin/Nalco on 05/23/2008 08:06 AM

Dennis J Lopez
05/22/2008 08:04 PM
To: Donato Aponte/USA/Latin/Nalco@NALCO
cc: Ashok P Duggal/USA/Latin/Nalco@NALCO
Subject: Reports

Donato, I have not seen reports for:

Marriott St Kitts - April, May
Alpha Barbados - April, May
Sandals Regency - "****"
Sandals Grand - "****"

Please send them to me

Regards,

Dennis J. Lopez
Senior Account Manager
Nalco Company
cell (787) 399-3500
office (787) 746-3500
fax (787) 746-3457
www.nalco.com

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5/29/2009

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Exhibit 7 to Declaration of Ashok Duggal

Certified Translation
Janis Palma, USCCJ

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Page 1 of 1

Ashok P Duggal
05/30/2008 11:24 AM

To: Donato Aponte/USA/Latin/Nalco@NALCO
cc:
Subject: Re: Presentation

Donato, very good.

I need you to fix the following as soon as possible for Wyeth.
Provide more details on info.
Put notes on tables and graphics, emphasizing and explaining.
Create a final table summarizing better: what did you see, good and not good, problems, their consequences, how to correct, and savings if they are corrected.

By when will we have that?

~~~~~  
Ashok Pablo Dugal  
Area manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
~~~~~

Donato Aponte
05/30/2008 05:43 AM
To: Ashok P Duggal/USA/Latin/Nalco@NALCO
cc: Manuel Rivera Ramos/NV/US/Nalco@NALCO
Subject: Presentation

Ashok:

This is Manuel's presentation.

Donato Aponte
District Representative
Nalco Co.
787-385-9352
daponte@nalco.com
www.nalco.com

COOLING TOWER PERFORMANCE Wyeth Guayana 5_14.ppt has been removed
from this note on May 30 2008 by Ashok P Duggal
CT Performance Audit Guayana Torre 2.xls has been removed from this
note on May 30 2008 by Ashok P Duggal

file://F:\Nalco\Reps\DAIDA email Wyeth CT test 2

5/29/2009

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Exhibit 8 to Declaration of Ashok Duggal

Certified Translation
Janis Palma, USCCI

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Page 1 of 2

Ashok P Duggal
06/08/2008 10:23 AM
To: Donato Aponte/USA/Latin/Nalco@NALCO
cc:
Subject: Fw: REQUEST FOR REPORT - APRIL 2008

Donato, we have to talk about late reports.

What is going on?

~~~~~  
Ashok Pablo Dugal  
Area manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
~~~~~

----- Forwarded by Ashok P Duggal/USA/Latin/Nalco on 06/08/2008 11:20 AM

Glendalis Garcia
06/06/2008 10:448 AM
To: Ashok P Duggal/USA/Latin/Nalco@NALCO
cc:
Subject: Fw: REQUEST FOR REPORT - APRIL 2008

FYI

Glendalis Garcia
District Administrator
Nalco Co.
Cda. Santa Juana II
J-5 Street 12
Caguas PR 00725
ggarcia1@nalco.com
Tel: 787-746-3500 / Fax: 787-746-3457
Cel: 787-312-9351

----- Forwarded by Glendalis Garcia/USA/Latin/Nalco on 06/06/2008 10:43 AM

"Bernandez, Yolanda" <YHERNANDEZ@SMURFIT.COM>
06/05/2008 07:16 PM
To: Donato Aponte <daponte@nalco.com>
cc: Glendalis Garcia <ggarcia1@nalco.com>, "Roque, Vivian"
<VROQUE@SMURFIT.COM>, "Ortega, Samuel" <SORTEGA@SMURFIT.COM>
Subject: Re: REQUEST FOR REPORT - APRIL 2008

2ND REQUEST!!!
Yolanda Hernández

From: Hernandez, Yolanda
Sent: Thursday, May 29, 2008 4:26 PM
To: Donato Aponte
Cc: 'Glendalis Garcia'; Roque, Vivian
Subject: REQUEST FOR REPORT - APRIL 2008

Donato:

I will appreciate your sending me the report for the month of April 2008. To

file://F:\Nalco\Reps\DAIDA email smurfit reports

5/29/2009

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Certified Translation
Janis Palma, USCCI

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Page 2 of 2

this date I have only received the first three months of the year, if maybe you sent it to Angel Ortega, remember to send me a copy for accounting purposes.

Waiting for your reply.

Thanks,

Yolanda Hernández
Smurfit-Stone Puerto Rico, Inc.
Amelia Industrial Park
47 Amelia Street
Guaynabo, PR 00968-0003
F: (787) 792-7000; Ext. 232
F: (787) 781-3190
yhernandez@smurfit.com

file://F:\Nalco\Reps\DAIDA email smurfit reports

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Certified Translation
Janis Palma, USCCI

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Ashok P Duggal
06/12/2008 09:59 AM
To: Donato Aponte/USA/Latin/Nalco@NALCO
cc:
Subject: Fw: Alpha Barbados

Donato, another example.

It is critical to have reports delivered on time. Everyone complies, there are no exceptions.

This is something we have talked about repeatedly, there is going to be no tolerance.

We need to see an immediate improvement without excuses.

~~~~~  
Ashok Pablo Dugal  
Area manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
~~~~~

----- Forwarded by Ashok P Duggal/USA/Latin/Nalco on 06/12/2008 10:57 AM -----

Dennis J Lopez
06/10/2008 01:43 PM
To: Donato Aponte/USA/Latin/Nalco@NALCO
cc: Ashok P Duggal/USA/Latin/Nalco@NALCO, Jorge
Castillo/USA/Latin/Nalco@NALCO
Subject: Alpha Barbados

Donato. This is a serious reminder. This is the second time that the customer asks for the service reports and is asking for quotes on the reactives that are included in the contract. Please comply once more with the minimum that is required of you. This is a corporate account and it would be very ugly for you to put us in the "spotlight" for simply failing to submit the service reports.

thank you for your cooperation.

Dennis J. Lopez
Senior Account Manager
Nalco Company
cell (787) 399-3500
office (787) 746-3500
fax (787) 746-3457
www.nalco.com

----- Forwarded by Dennis J Lopez/NV/US/Nalco on 06/10/2008 01:40 PM -----
<Vernon.Harris@alpha.com>
06/10/2008 12:51 PM
To: <dlopez@nalco.com>
cc:
Subject: Quotation

Hi Dennis can you send me a quotation for nthe following items

- 1) Reagent 46050770 SOL2M-1
- 2) Reagent 46050124 RTD-4
- 3) Nitrate Lot 4GV7G0662A7

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5/29/2009

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Certified Translation
Janis Palma, USCCI

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We have also not received these reports from our new rep and we really need to reciev them.

Regards

Vernon

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Certified Translation
Janis Palma, USCCI

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Ashok P Duggal
06/12/2008 09:46 AM
To: Donato Aponte/USA/Latin/Nalco@NALCO
cc:
Subject: Fw: CFT May -Compliance Caribbean

Donato,
I am concerned about your compliance with the reports. The administrative as well as the customers' reports.

We need to talk when you come back from vacation, let me know what is the plan you have to improve this.

~~~~~  
Ashok Pablo Dugal  
Area manager  
Nalco Co.  
(787) 385-9350  
aduggal@nalco.com  
www.nalco.com  
~~~~~

----- Forwarded by Ashok P Duggal/USA/Latin/Nalco on 06/12/2008 10:44 AM

Miriam Vera Vega
06/09/2008 12:25 PM

To: Pedro Lara/Latin/Nalco@NALCO, Donato Aponte/USA/Latin/Nalco@NALCO,
Angel Urena/Latin/Nalco@NALCO, Ruddy A Guerrero/USA/Latin/Nalco@NALCO,
Rudy Rosales/MV/US/Nalco@NALCO
cc: Ashok P Duggal/USA/Latin/Nalco@NALCO, Samuel
Mendoza/USA/Latin/Nalco@NALCO, Jorge Castillo/USA/Latin/Nalco@NALCO,
Antonio Chapina/USA/Latin/Nalco@NALCO

Subject: CFT May -Compliance Caribbean

Pedro / Donato / Angel / Ruddy / Rudy :

I am sorry to say to you that you are the only people missing from the CFT May for the Caribbean area, I need you to please send it to me as soon as possible, to be able to prepare the consolidated report.

Regards,
Miriam

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Exhibit 9 to Declaration of Ashok Duggal

Ashok P Duggal
06/21/2008 12:25 PM

To: Donato Aponte/USA/Latin/Nalco@NALCO
cc:
Subject: Fw: Service Report

Donato,

I am very displeased with your performance lately. This is not the level of work of a Nalco Sales Rep with your experience. I have sent several email during the past few weeks asking for your action plan on how to improve your quality of service: timely report submitting, visit frequency, and general Nalco Representative attitude improvement, and after some weeks I have still not received anything. Please be prepared to discuss this Wednesday, May 25 in our office.

Ashok Pablo Duggal
Area Manager
Nalco Co.
(787) 385-9350
aduggal@nalco.com
www.nalco.com

----- Forwarded by Ashok P Duggal/USA/Latin/Nalco on 06/21/2008 12:21 PM

<Vernon.Harris@alpla.com>
06/18/2008 06:50 AM

To: <dlopez@nalco.com>
cc: <aduggal@nalco.com>, <jcastillo@nalco.com>
Subject: RE: Service Report

No I have not as yet

From: Dennis J Lopez [mailto:dlopez@nalco.com]
Sent: Tuesday, June 17, 2008 10:22 PM
To: Harris Vernon
Cc: Ashok P Duggal; Jorge Castillo
Subject: Service Report

Vernon please advise if you have received the service report from Donato.

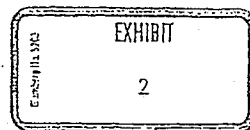
thanks and regards

Dennis J. Lopez
Senior Account Manager
Nalco Company
cell (787) 399-3947
office (787) 746-3500
fax (787) 746-3457
www.nalco.com

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5/29/2009

Exhibit 10 to Declaration of Ashok Duggal



Jorge Ortiz

06/23/2008 10:52 PM

To: Ashok P Duggal/USA/Latin/Nalco@NALCO
cc: Jorge Castillo/USA/Latin/Nalco@Nalco, Stephanie P
Glashage/NV/US/Nalco@NALCO
Subject: Amgen Pharmaceutical Complain

Ashok:

Please attached find the summary for the meeting that was requested last week by the Amgen Utilities personnel, regarding their complain with the Nalco Service at this plant.

Let me know if you need additional information.

Regards,

Jorge Ortiz Soldevila
Account Manager
Nalco Company
787-385-9354
jortiz1@nalco.com



AmgenComplain.pdf

June 23, 2008

Ashok Duggal
Area Manager
Nalco Company
Caguas, Puerto Rico

Ashok:

As you requested, last week I called Kenneth Colón (Utilities Mgr.) from Amgen Pharmaceutical, in order to attend his complaint of the lack of service received from Donato Aponte at this site. A meeting was set for last Thursday 19, 2008 at 2:00 pm, where Jorge Castillo (Nalco Regional Mgr), Kenneth Colón, Roberto Picou (Amgen Utilities Eng) and Myself participated in the mentioned meeting.

A summary of their complaints is as follow:

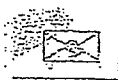
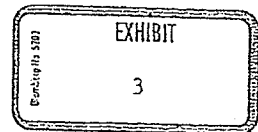
1. They do not perceive from Donato a professional level of service at the high standard that Nalco is supposed to deliver.
2. They feel Donato has not been effective in providing a solution for the White Rust problem in the system. He requested a report in order to present and protect the new cooling Tower System from White Rust Corrosion, and the report was submitted almost six months later. He also mentioned that Chemtreat, which is the supplier in the other Amgen Plant, was contacted for a recommendation on how to handle the new cooling tower against the White Rust problem, and at the next day, a complete and a very professional report was presented. He emphasized many times of the quick and the professional response he received from our competitor.
3. They mentioned that at this moment they feel that are only buying from Nalco chemical products, not solutions or the level of service that they would expect to receive.
4. They do not feel Donato is taking care of their equipment and systems, as they would like. His communication and reporting have been very poor or none.
5. They mentioned that chemical consumption has decreased, but they have not been told the reason why. They don't know if we are under feeding chemicals and letting the system without protection due to the lack of service, or if any efficiency improvement has been made.
6. They have requested a report from Donato several times, of the recommendations for the chemical treatment changes needed for the boiler system, where they will be using a new type of make up water (RO reused water from WWTP), and nothing has been received yet.
7. They also mentioned that over almost 3 months ago, Edward Bray has not made any service call at any of the other buildings where closed loops were supposed to be serviced by Nalco.
8. Roberto Picou emphasized that he recognizes the technical knowledge that Donato might have, but with such a poor communication and reporting skills, and the poor response time when something is requested, his service is not valuable to him.

As an immediate action plan, we notified Kenneth and Roberto, that beginning immediately, Crispin Hernandez, you (Ashok Duggal) and Myself (Jorge Ortiz) would take the total responsibility of servicing this account. We expressed to them our commitment in a high and valuable service level that we should be providing to their plant, and that for us, this lack of service received is fully unacceptable. I already communicated to Donato and Edward our decision in removing them from the responsibility of servicing this account, and all of the customer complaints. Neither Donato nor Edward rejected the decision.

Regards...

Jorge Ortiz
Account Manager
Nalco - Puerto Rico
787-385-9354

Exhibit 11 to Declaration of Ashok Duggal



Glendalis Garcia
07/01/2008 05:33 PM

To: Stephanie P Glashagel/NV/US/Nalco@NALCO
cc: Jorge Castillo/USA/Latin/Nalco@Nalco, Ashok P
Duggal/USA/Latin/Nalco@NALCO
Subject: Donato Aponte Termination

Stephanie,

I am using our DA's computer, since mine was sent in for repairs.

As per your request, I am sending here a summary of the reasons why we still need to terminate Donato Aponte's employment with Nalco.

1. Warner Chilcott. This was an account Donato was responsible for. Due to lack of urgency, motivation, performance and will to help, WC cancelled our contract and gave it to a competitor. I was informed of his lack of performance before, I documented this by sending him an email on 5/21/07 describing the situation, and what action plan was needed. He did not comply with this, and for this we were let go.
2. After several complaints from clients, I decided to write up a performance improvement letter to describe his situation 8/14/07 which described areas for improvement, and an ultimatum if not fulfilled. After many months he still has not complied with most of the items. This letter was signed by him where it is stated termination of employment if failure to meet performance objectives.
3. This year he was again underperformance, my Regional Manager and I met with him, to help him improve. We gave him other responsibilities we hoped he would be motivated by and help improve his performance. Several clients he was responsible for, have already sent in the past few months, email with complaints and asking what has happened with Nalco's service.
4. I have sent this year many email, trying to encourage him, find out if anything is wrong, and other times demanding response. He 8 out of 10 times responded to these email.
5. Recently while on vacation an Engineering Manager of Amgen, a key account for us, called to complain about Donato's performance. Jorge Castillo, Regional Manager, and Jorge Ortiz, Senior account manager, visited them to help out. Here they found out many of Donato's performance problems as well. To help calm the situation, Jorge proposed changing Reps, which they agreed to. If not we may have lost this account as well. Jorge Ortiz sent an email describing what happened on 6/24.
6. In May I had also visited Amgen before the above situation, and had received several complaints of Donato. Here I first emailed him on 5/03 with a description of what they talked about, and areas to improve. I never received feed back, and things got even worse.
7. This year he was in charge of a special test for a client, Wyeth, asked for. Wyeth was hoping for a response with a report in 1-2 weeks. Donato took over 2 months to respond. I sent an email on 5/30, asking for his response, which he didn't.
8. Donato has also had administrative work deficiencies. As sending reports on time. I sent him an email on 2/17 on this.
9. Many of my email went without him responding, as one on 6/08 where I ask about 3DT alarms in Chevron Phillips, and what he is doing about it.
10. Also Chevron Phillips asked for a product quotation on 5/30, on 6/18 the client follow up without any response, and I did not get any response on another email on 6/21 either.
11. On 5/23 I sent an email asking why he never sent reports to several clients he serviced in the Caribbean, and the Senior Rep, Dennis Lopez, was concerned, I never got a response either.
12. On 6/08 I emailed him asking about why he hasn't serviced Smurfit and wrote reports they were requested by in writing. Again no response.

I hope this is what you asked for. Please let me know if you need anything else. All the above mentioned documents were sent to you previously.

Ashok Duggal